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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Morten Sagstuen

3657-1024

9354

466

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04/02/2008

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EXAMINER

WILSON, KAITLIN A

ART UNIT

PAPER NUMBER

3636

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,162	Applicant(s) SAGSTUEN, MORTEN	
	Examiner KAITLIN A. WILSON	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 10 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Amendments and Applicant Arguments submitted on 12/10/2007 have been received and its contents have been carefully considered.

Claims 1-16 are presented for examination.

Specification

1. The objections to the specification have been removed in response to the applicant's amendment.

Claim Objections

2. The objections to the claims have been removed in response to the applicant's amendment.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1- 16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding Claims 1, 2, 4, 5, 9-11 and 16 the limitation of "essentially through or close to a user's center of gravity" and "the user's hip" specifically limits the claim to particular part of the human body. A claim directed to or including within its scope a human being or attributes of a human being is not patentable subject matter. See MPEP §2105 and 1077 OG 24 (April 21, 1987).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Regarding Claims 1, 2, 4, 5, 9-11 and 16, the limitation of “essentially through or close to a user's center of gravity” and “the user’s hip” specifically limits the claim to particular part of the human body. Since people come in all different shapes, sizes, abilities, and characteristics, the scope of the claim is unclear. See §101 rejections above.

7. Claim 1 recites the limitation "the back link arm connection" and “the seat link arm connection” on page 4. There is insufficient antecedent basis for these limitations in the claim.

8. Claim 10 recites the limitation "a link arm connecting each of **the back swivel fittings** and each of **the seat swivel fittings**" on page 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Henke (US Patent 5,108,148).

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11. In re Claim 1, with reference to Figures 1 and 7, Henke discloses an adjustable chair (1) arrangement, comprising:

- a seat (4)
- a back (2)
- two side members (8 and 11; figures 3 and 4) pivotally supporting the seat and the back;
- a back pivotal support (A) for each side member (8)
- a seat pivotal support (B) for each side member (8)
- a pair of first link arm connections (E)
- a pair of second link arm connections (shown below)
- a link arm (20) connecting a respective one of the first link arm connections (E) to the back (2) and a respective one of the second link arm connections (shown below) to the seat (4); and
- a kinematic connection and are kinematically interconnected interconnecting the two side members (8) in such manner that an angle between the seat (4) and the back (2) will increase when the back (2) is swiveled backwards about the respective back pivotal support (A) in the side members (8),
- the kinematic connection comprises a link connection between the seat (4) and the back (2),
- the link connection is in the form comprised of the link arm (20) arranged under the respective back (A) and seat pivotal supports (B) of the seat and the back so

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- i) that a distance between the back pivotal support (A) and the back link arm connection (shown below) is less than a distance between the seat pivotal support (E) and the seat link arm connection (B), and
- ii) that an axis of rotation of the seat through the seat's seat pivotal support (B) in the side members passes essentially through or close to a user's center of gravity (17) and

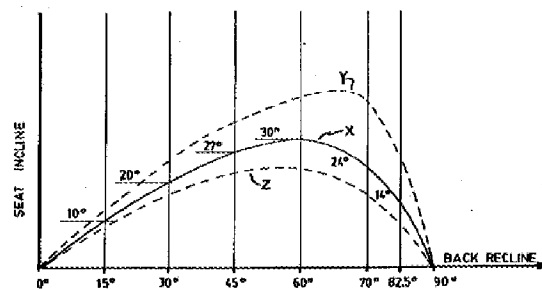
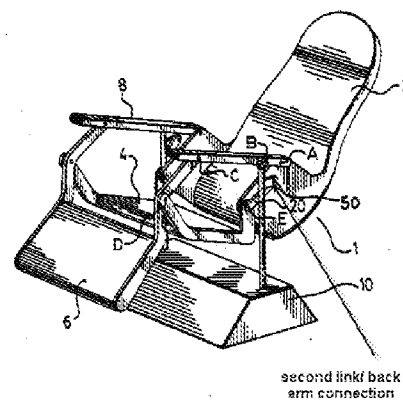


FIG. 7.

12. The examiner does not consider the recitation of the “user’s center of gravity” to limit the claim to a specific location.

13. In re Claim 2, with reference to Figure 5, the examiner does not consider the recitation of the “user’s hips” to limit the claim to a specific location. Henke, with reference to Figure 5,

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discloses pivot (A), which inherently passes through the upper portions of the hip and is the pivot support for the back (2) of the chair (1). This is considered to be equivalent language to the applicant's "through the user's hip".

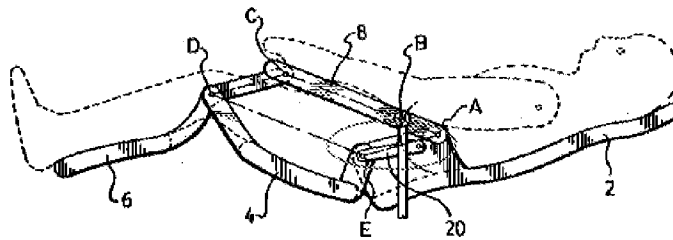


FIG. 5.

14. In re Claim 3, Henke discloses that the chair is a wheelchair (col. 2, line 38).

Allowable Subject Matter

15. Claims 4-16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and 35 U.S.C. 101, set forth in this Office action.

Response to Arguments

16. Applicant's arguments filed 12/10/2007 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the different

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distances between the pivot points has no influence on the angle between the backrest and the seat;) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Based on the claim language presented it is believe that Henke reads on the applicant's invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLIN A. WILSON whose telephone number is (571)270-3206. The examiner can normally be reached on Monday - Friday (7:00am-4:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571)272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. A. W./
Examiner, Art Unit 3636

/David Dunn/
Supervisory Patent Examiner, Art Unit 3636